



# भारत का राजपत्र The Gazette of India

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सं. 28] नई दिल्ली, अगस्त 2—अगस्त 8, 2020, शनिवार/श्रावण 11—श्रावण 17, 1942  
No. 28] NEW DELHI, AUGUST 2—AUGUST 8, 2020, SATURDAY/SRAVANA 11—SRAVANA 17, 1942

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके  
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)  
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं  
Statutory Orders and Notifications Issued by the Ministries of the Government of India  
(Other than the Ministry of Defence)

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 5 अगस्त, 2020

**का.आ. 611.**—केन्द्र सरकार, एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 की अधिनियम संख्या 25) की धारा 5 की उप-धारा (1) सपठित धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए बिहार राज्य सरकार, गृह विभाग (पुलिस शाखा) की अधिसूचना सं. 9/सी.बी.आई.-80-09/2020 एचपी-5101/पटना, दिनांक 04 अगस्त, 2020, के माध्यम से जारी सहमति से बॉलिवुड अभिनेता सुशांत सिंह राजपूत की मृत्यु के संबंध में राजीव नगर पुलिस स्टेशन, जिला पटना में भारतीय दण्ड संहिता की धारा 341, 342, 380, 406, 420, 306, 506 और 120 बी के तहत दर्ज मामला सं. 241/2020 के संबंध में किए गए अपराध(धों) के अन्वेषण करने के लिए तथा ऐसे अपराध(धों) से जुड़े या उससे संबद्ध किसी दुष्प्रयास, दुष्प्रेरणा और षड्यंत्र

एवं/अथवा उसी संव्यवहार में किए गए या उन्हीं तथ्यों से उत्पन्न किसी अन्य अपराध का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार समस्त बिहार राज्य में करती है।

[फा. सं. 228/20/2020-एवीडी-II]

एस.पी.आर. त्रिपाठी, अवर सचिव

## MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Personnel and Training)

New Delhi, the 5th August, 2020

**S.O. 611.**—In exercise of the powers conferred by sub section (1) of Section 5 read with Section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government, with the consent of the State Government of Bihar, issued vide Home Department (Police Branch) Notification No. 9/C.B.I-80-09/2020 HP-5101/Patna, Dated 4<sup>th</sup> August, 2020, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole State of Bihar for investigation into the Rajiv Nagar Police Station, District Patna, Case No 241/2020 dated-25.07.2020 under sections 341, 342, 380, 406, 420, 306, 506 and 120 B I.P.C. relating to the death of Bollywood actor Shushant Singh Rajput, and any attempt, abetment, and conspiracy, in relation to or in connection with such offence(s) and / or for any other offence committed in the course of the same transaction or arising out of the same facts.

[F. No. 228/20/2020-AVD-II]

S. P. R. TRIPATHI, Under Secy.

## परमाणु ऊर्जा विभाग

मुम्बई, 13 दिसम्बर, 2019

**का.आ.612.**—केन्द्रीय सरकार, परमाणु ऊर्जा विभाग के प्रशासनिक नियंत्रणाधीन क्रय और भंडार निदेशालय, मुंबई के निम्नलिखित एककों, जिसके 80% से अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को राजभाषा नियम (संघ के शासकीय प्रयोजनों के लिए प्रयोग) 1976 के नियम 10 के उपनियम (4) के अनुसरण में अधिसूचित करती है :

1. इंदौर क्षेत्रीय क्रय एकक, इंदौर
2. हैदराबाद क्षेत्रीय क्रय एकक, हैदराबाद

[सं. 6/7/2019-हिंदी]

संजय कुमार, संयुक्त सचिव (प्रशासन एवं लेखा)

## DEPARTMENT OF ATOMIC ENERGY

Mumbai, the 13th December, 2019

**S.O. 612.**—In pursuance of sub-rule (4) of Rule 10 of the Official Language (Use for official purpose of the Union) Rules, 1976, the Central Government hereby notifies following Unit of Directorate of Purchase and Stores, Mumbai under the administrative control of the Department of Atomic Energy, where more than 80% staff has acquired working knowledge of Hindi :

1. Indore Regional Purchase Unit, Indore
2. Hyderabad Regional Purchase Unit, Hyderabad

[No. 6/7/2019-Hindi]

SANJAY KUMAR, Jt. Secy. (A&A)

**श्रम और रोजगार मंत्रालय**

नई दिल्ली, 9 जुलाई, 2020

**का.आ. 613.**—राष्ट्रपति, श्री राधा मोहन चतुर्वेदी, पीठासीन अधिकारी, केन्द्रीय सरकार औद्योगिक अधिकरण सह श्रम न्यायालय, जयपुर को सौंपे गए केन्द्रीय सरकार औद्योगिक अधिकरण सह श्रम न्यायालय, अहमदाबाद के पीठासीन अधिकारी के अतिरिक्त प्रभार की अवधि दिनांक 15.07.2020 से छः माह तक अथवा नियमित रूप से पद भरे जाने तक अथवा अगले आदेशों तक, इनमें जो भी पहले हो तक बढ़ाते हैं।

[सं. अ-11016/02/2019-सीएलएस-II]

सतीश चन्दर, अवर सचिव

**MINISTRY OF LABOUR AND EMPLOYMENT**

New Delhi, the 9th July, 2020

**S. O. 613.**—The President is pleased to extend the period of additional charge of the post of Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad entrusted to Shri Radha Mohan Chaturvedi, Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court, Jaipur for a further period of six months with effect from 15.07.2020 or till the post is filled up on regular basis, or until further orders, whichever is the earliest.

[No. A-11016/02/2019-CLS-II]

SATISH CHANDER, Under Secy.

नई दिल्ली, 24 जुलाई, 2020

**का.आ. 614.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दी कौर वैश्य बैंक लि. प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बंगलोर के पंचाट (संदर्भ संख्या 03/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24.07.2020 को प्राप्त हुआ था।

[सं. एल-12025/01/2020-आईआर (बी-1)]

बी. एस. बिष्ट, अवर सचिव

New Delhi, the 24th July, 2020

**S. O. 614.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 03/2015) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Bangalore as shown in the Annexure, in the industrial dispute between the management of The Kaur Vysya Bank Ltd. and their workmen, received by the Central Government on 24.07.2020.

[No. L-12025/01/2020-IR (B-1)]

B. S. BISHT, Under Secy.

**ANNEXURE****BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE**DATED : 02<sup>ND</sup> JULY, 2020**PRESENT : JUSTICE SMT. RATNAKALA, Presiding Officer****ID 03/2015****I Party**

Sh. R. Girish,  
S/o Late Ramanjanappa,  
R/at No. 48,  
'Sapthagiri Nilaya',  
Chumurappa compound,  
Raja Rajeshwarinagar,

**II Party**

1. The Deputy General Manager-HRD,  
The Karur Vysya Bank Ltd.,  
Human Resource Department,  
Central Office, Erode Road,  
KARUR – 639002.  
Tamil Nadu.

BENGALURU – 560 098.

2. The Deputy General Manager,  
The Karur Vysya Bank Ltd.,  
Divisional office,  
No. 6, 2<sup>nd</sup> floor,  
Sri Vasavi temple road,  
Sajjanrao circle, V.V. Puram,  
BENGALURU - 560 004.

**Appearance**

Advocate for I Party : Mr. S.B. Mukkannappa

Advocate for II Party : Mr. B.C. Prabhakar

**AWARD**

1. It is a Petition filed under Sec 2-A (2) (3) of the Industrial Disputes (Amendment) Act, 2010 ('the Act' herein after).

The claim of the Petitioner / 1<sup>st</sup> Party workman is,

he was appointed by the 2<sup>nd</sup> Party / Karur Vysya Bank as Sub-Staff at Belgaum in the year 2007. While working at Gulbarga Branch as Sub-Staff, he was issued Charge Sheet dated 16.11.2011 alleging certain misconduct during the period of his service at Koramangala Branch, Bangalore. He submitted his reply denying the charges. Not convinced with his reply, the 2<sup>nd</sup> Party initiated Domestic Enquiry by appointing the Enquiry Officer. The Enquiry was not valid and the misconduct was not proved in the Enquiry. Still, the 2<sup>nd</sup> Party proposed to dismiss him from service and called upon him to appear for personal hearing on 13.08.2013. Due to domestic reasons, he requested to postpone the personal hearing; without giving an opportunity to him, the Disciplinary Authority passed a final Order of Dismissal dated 20.09.2013. Along with the Dismissal Order, the 2<sup>nd</sup> Party filed an approval application under Sec 33(2)(b) of the ID Act; they had sent copy of Order of Dismissal with an account payee cheque dated 20.09.2013 for a sum of Rs. 12,569.88/-; since, the Order of Dismissal was contrary to Memo of Settlement dated 10.04.2002; he returned the above cheque to the 2<sup>nd</sup> Party along with the covering letter dated 08.01.2014; he has not committed any misconduct as alleged. His transfer from Koramangala Branch to Gulbarga was activated by malafides to victimise him. He had remained absent on account of his ill health; he has sent the leave application for sanction of leave on medical grounds; without extending sufficient opportunity, Enquiry Officer held ex-parte Enquiry and recorded biased and perverse finding; he is illegally dismissed from service consequently, along with his dependence he is put to great financial hardship.

2. The claim is contested. In the Counter Statement the 2<sup>nd</sup> Party denied all the Claim Statement allegations and sought to uphold fairness of Domestic Enquiry, Enquiry Report and the Dismissal Order.

3. To prove the fairness of the Domestic Enquiry conducted against the workman, the 2<sup>nd</sup> Party examined the Enquiry Officer as it's witness and produced the Enquiry Records. Rebuttal evidence was adduced by the 1<sup>st</sup> Party. Vide Order dated 26.06.2019, it is held

*"...during the Domestic Enquiry the 1<sup>st</sup> Party was given fair opportunity to defend himself against the charges and the Enquiry was held in a fair and proper manner".*

4. The workman adduced evidence about his unemployment, financial hardship and hostile attitude of his erstwhile superiors in fixing him in this case.

The 2<sup>nd</sup> Party adduced rebuttal evidence through it's Manager (HRD). The witness produced the past records of the workman pertaining to a Punishment Order dated 18.01.2012 whereby, he was imposed punishment of reduction by two stages in his scale of pay.

5. Both Learned Counsels have submitted the oral / written argument.

6. To epitomise the allegation against the workman in the Charge Sheet dated 16.11.2011 was,

While working at Bangalore, Koramangala Branch, an advice was given by the Manager in respect of his duties, he answered her in a sarcastic manner – he was disrespectful to the staff members and the Manager – used to shout against them and quarrel with them in the counter in presence of customers, thereby belittling the image of the Bank – not attending the customers' requests and quires – using mobile phone indiscriminately during office hours in violation of circular instructions – leaving the Bank premises early – not attending most of the Branch meetings held on every Friday – on receipt of the Transfer Order he teased the Manager – he was not attending the assigned works – refused to attend the works entrusted.....

Further allegation is, he was transferred from Koramangala to Gulbarga vide transfer Order dated 14.09.2011 and was to report at the transferred place before 04.10.2011 - he was absenting from duty at Koramangala Branch since 17.08.2011 - he sent a medical certificate by fax dated 18.08.2011 requesting for leave till 04.09.2011 - on 05.09.2011, he sent another medical certificate requesting leave from 05.09.2011 to 25.09.2011 - vide modified Transfer Order dated 24.09.2011, he was advised to report to duty at Gulbarga Branch before 03.10.2011 - since, he had not reported for duty at Koramangala Branch till 25.09.2011, he was informed through register Post with acknowledgement due by the Branch that he is deemed to be relieved from the Branch as at the close of the working hours of 25.09.2011 - he did not report at the transferred place - his absence from 26.09.2011 was treated as unauthorised and the same was informed to him by Gulbarga Branch - he was reminded to report to duty immediately vide Central Office letter dated 09.11.2011 and he was informed that without prejudice to the action that may be initiated against him for disobeying the lawful and reasonable Order of the Management and remaining unauthorisedly absent for duty.

7. The CSE attended the Domestic Enquiry only once and had his consent for marking the Management documents Mex-1 to Mex-16. On his request, Enquiry was adjourned but he remained continuously absent on the dates of Enquiry.

On behalf of the Management, the Manager and Assistant Manager of Koramangala Branch, Bangalore was examined. Since, the CSE did not turn up to cross-examine the witnesses on the hearing date they had to be discharged without cross-examination. Both witnesses had disposed in accordance with the Charge Sheet allegations. The documents produced by the Management marked with the consent of the CSE were,

the Report sent by the Manager to the General Manager, Deputy General Manager, HRD (Central Office), transfer Order dated 14.09.2011 transferring CSE to Gulbarga Branch, Report sent by the Branch on his absence to Central Office, the Fax message sent by the CSE dated 18.08.2011 seeking sanction of leave along with the medical certificate, the Order of the HRD (Central Office) directing the Manager to relive him from Branch as at the close of working hours of 25.09.2011, Relieving Order, the letter addressed to the CSE from Gulbarga Branch intimating him that his absence from 26.09.2011 "*will be treated as unauthorised without prejudice to suitable disciplinary action*", the Order of the Central Office addressed to the CSE regarding advising him to report to duty immediately, memos dated 26.08.2011 regarding unsatisfactory discharge of duty and lethargic attitude and the explanation submitted by the CSE to the Central Office and his leave statement.

8. It is not strange that in the absence of anything to the contrary, the finding of Enquiry Officer concluded that "*THE CHARGES LEVELLED AGAINST THE CSE IN THE CHARGE SHEET: HRD/W-11/24/2011 DATED 16.11.2011 IS PROVED BEYOND DOUBT*". Though there was no defence, the Enquiry Officer has gone on to consider each ray of the evidence placed before him to arrive at his conclusion.

9. The Enquiry finding though served on his address, he did not submit his reply. Despite giving one more opportunity vide letter dated 03.06.2013 which is served on him, he did not choose to submit any. The Disciplinary Authority vide its considered Order dated 31.07.2013, proposed the punishment of 'Dismissal from service' of the Bank without notice firstly on the count of "wilful sub-ordination and disobedience of lawful and reasonable Orders of the superiors"; secondly on the charge of "remaining unauthorisedly absent without intimation continuously for the period exceeding 30 days". He was called upon to attend the personal hearing on the scheduled date, time and place. Though the Order was served on him, he did not attend the proposed punishment herein nor sought any adjournment of hearing. Still, the Disciplinary Authority gave him one more opportunity to appear before him in his cabin on 13.08.2013 at 11:00 am in his cabin. This notice though served, he chose not to appear before the Disciplinary Authority thus, the final Order dated 20.09.2013 came to be passed thereby confirming the proposed punishment. It is a well-considered Order on a scrutiny of the entire records of the Enquiry.

10. Before this Tribunal it is contended for the 1<sup>st</sup> Party that, he was victimised and subjected to unfair labour practice - he was directed by the superiors to personally deliver cash amount exceeding the limit fixed by the Bank which he resisted to carry; being a marginal employee, he could not deliver cash amount more than Rs. 15,000/-, that made his superiors to turn hostile to him; his absence was due to hospitalisation of his father for his cancer; the punishment of dismissal is too serve and disproportionate to alleged gravity of misconduct.

11. He has placed reliance on the following Judgements;

- (i) Mohd. Yunus khan vs. State of U.P and others reported in 2010(10) SCC 539.
- (ii) The Management of BWSSB vs. K.S. Sreenath reported in W.P. No. 9667/2007 (L-Ter) dated 15.10.2008.



- (iii) Smt. P. Latha VS. BHEL reported in W.P. No. 24012/2014 c/w W.P. No. 34905/2014.
- (iv) Deepali Gundu Surwase vs. Kranti Junior Adyapak Mahavidyalaya (D.ED) and others reported in 2013(10) SCC 324.

Unfortunately, none of these Judgments have semblance to the case of the workman. This Tribunal while exercising the jurisdiction under Sec 11-A of 'the Act', does not assume the jurisdiction of an Appellate Authority and cannot receive additional evidence which ought to have been placed during the Domestic Enquiry. The Claim petition filed before this Tribunal cannot be equated to a plaint filed before the Civil Court under the provisions of Civil Procedure Code. The allegation of victimisation made during his oral evidence is not supported with documentary proof. The superior Officers of the 1<sup>st</sup> Party / MW-1 to MW-2 under whom he has worked have given evidence about the insubordinate attitude of the 1<sup>st</sup> Party and the records, sufficiently make out the case of unauthorised absence for more than 30 days.

Probably, the 1<sup>st</sup> Party was not at defending against charges, so that he may continue in the service of the Bank. Otherwise, he would have submitted his remarks to the Enquiry Report and would have attempted to persuade the Disciplinary Authority to waive or reduce the punishment. The punishment of Dismissal from service commensurates with the proved charges of wilful insubordination, disobedience of lawful and reasonable Orders of superiors and unauthorised absence for a period exceeding 30 days. There is no mitigating circumstance to intervene in the punishment Order.

### **AWARD**

The Petition filed by Sh. R. Girish under Sec 2-A (2) (3) of the Industrial Dispute Act (Amendment), 2010 is dismissed.

(Dictated to o/s LDC, transcribed by her, corrected and signed by me on 02<sup>nd</sup> July, 2020)

JUSTICE SMT. RATNAKALA, Presiding Officer

नई दिल्ली, 24 जुलाई, 2020

**का.आ. 615.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बंगलोर के पंचाट (संदर्भ संख्या 10/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24.07.2020 को प्राप्त हुआ था।

[सं. एल-12012/03/2010-आईआर (बी-1)]

बी. एस. बिष्ट, अवर सचिव

New Delhi, the 24th July, 2020

**S. O. 615.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 10/2011) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Bangalore as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 24.07.2020.

[No. L-12012/03/2010-IR (B-1)]

B. S. BISHT, Under Secy.

### **ANNEXURE**

#### **BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE**

DATED : 08<sup>TH</sup> JULY, 2020

**PRESENT** : JUSTICE SMT. RATNAKALA, Presiding Officer

#### **CR 10/2011**

##### **I Party**

Smt. B.S. Uma,  
No. 227, Giri Krupa,  
Teachers Colony, 3<sup>rd</sup> Cross,  
Near S.K. Hospital, Nagarbhavi,  
Bangalore – 560072.

##### **II Party**

The Dy. General Manager & CDO,  
State Bank of India,  
Local Head Office,  
No. 65, St. Marks Road,  
Bangalore – 560001.

**Appearance**

Advocate for I Party : Smt. Geetha Krishna

Advocate for II Party : Mr. B. C. Prabhakar

**AWARD**

The Central Government vide Order No. L-12012/03/2010-IR(B-I) dated 04.04.2011 in exercise of the powers conferred by Clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of Industrial Dispute Act, 1947 (for brevity 'the Act' hereafter) referred the following Industrial Dispute for adjudication.

**“Whether the action of the management of State Bank of India, Zonal Office, St. Marks Road, Bangalore in dismissing Smt. B.S. Uma, Ex-Assistant, SBI, RPC Layout Branch, Bangalore from service without notice vide their Order dated 11.05.2008, is legal and justified? To what relief the workman is entitled?”**

1. The 1<sup>st</sup> Party workman / former employee, Ex-Assistant of the State Bank of India/2<sup>nd</sup> Party is dismissed from service as a measure of punishment, since, certain allegation came to be proved against her in the Departmental Enquiry. She has raised the dispute questioning the legality of the punishment Order and claims that,

there was no evidence before the Enquiry Officer to hold her guilty of the first charge. The Disciplinary Authority without marshalling the evidence placed on record has inflicted major penalty. Though, the Enquiry Officer had held second charge is not proved without assigning cogent reasons for disagreeing with the Enquiry Officer's Report, Disciplinary Authority has mechanically inflicted the punishment Order. Before disagreeing with the Enquiry Officer's Report, a notice to the workman with the reasons for such disagreement is mandatory as held by the Hon'ble Supreme Court. The penalty of Dismissal is unjust and highly disproportionate to the misconduct alleged against her, it is harsh and excessive. Her excellent track record of service is not considered before inflicting the punishment. The Appellate Authority rejected her appeal in total non-application of mind. The Bank has not suffered any pecuniary loss. She was promised by the Branch Manager that lenient view would be taken, if the amount (misappropriated money) is deposited by her. Apprehending loss of livelihood, she paid the money even though she had not misappropriated. She is discriminated from other employees.

2. The 2<sup>nd</sup> Party contested the claim, denied her remarks against the Enquiry Report, so also against the legality of the punishment Order and sought to justify the action taken against her.

3. The procedure of Enquiry is upheld by adjudicating the Preliminary Issue vide Order dated 01.12.2014.

4. Heard Sh. KGNP for the 2<sup>nd</sup> Party and perused the Records.

5. The charge against the workman in the Charge Sheet dated 12.04.2006 was,

while working as Single Window Operator at RPC Layout Branch of the 2<sup>nd</sup> Party, on 16.08.2005, two account payee cheques for Rs. 14,206/- and Rs. 6,800/- for the credit of their account drawn on RPC Layout Branch tendered by Mandya District Co-operative Milk Producers' Society Union Ltd., (MANMUL) for credit to their account were treated by her as cash transactions and instruments were passed by her by using her user ID and she misappropriated the amount, kept the relative vouchers with her, later on tendered the amount for the credit of MANMUL account. Similarly, she has misappropriated four other cheques issued by MANMUL and removed the vouchers. When confronted, she made good the amount. In all she temporarily misappropriated the customers' amount to the extent of Rs. 54,053/-.

6. During the Enquiry, on behalf of the Management, three witnesses were examined and 14 documents were marked as Pex-1 to Pex-14. CSE examined herself and three more additional witnesses and produced 4 documents as Dex-1 to Dex-4.

The first witness for the prosecution was the then Assistant Manager of the Branch. The subject cheques / cross cheques issued by MD MANMUL were produced as Pex-1 and Pex-2; these cheques are issued for Rs. 6,800/- and Rs. 14,206/- dated 24.07.2005 and 23.07.2005 respectively. Among other things, he further deposed that these cheques were paid in cash on 16.8.2005 as shown in Pex-4 (Payment scroll dated 16.08.2005) – as per the statement of account of the customer / Pex-11, the cash is paid for both the cheques. Pex-12 is the register of missing cheques wherein, there is entry for missing of the above cheques on 16.08.2005 and later traced on 22.08.2005. These missing cheques were found in CSE's cash drawer and were taken for joint custody.

PW-2 was the Accounts Superintendent of MANMUL; he deposed that credit challan for Rs. 21,006/- being the deposit of above two cheques is credited to the account 55367 of MD MANMUL.

PW-3 / the Deputy Manager (MANMUL) identified the letter dated 09.09.2005 written by MANMUL to the Branch furnishing the details of the amounts not credited to their account / Pex-14. He gave the details of the number of six cheques for the respective amount totalling to Rs. 54,053/- - these cheques were issued by their authorised dealers.

It emerged during the evidence that, all though aware of systems and procedures, she failed to obtain signature on the cheques to whom she handed over the cash and had not branded necessary cash paid stamps on the cheques. Vide suspense account credit voucher / Pex-7, CSE had deposited Rs. 33,047/- on 02.12.2005.

DW-1 was examined to support his daughter / CSE had remitted the money due to forced circumstances. She was threatened if the money is not remitted, she would be handed over to police. As DW-2 / CSE stated that, on 16.08.2005 she paid the cash to PW-3 / Srinivas without noticing crossing of the cheque. She was not keeping the vouchers as deposed by PW-1 – she forgot to put rubber stamp on the cheques Pex-1 and Pex-2 immediately after the transaction was over, as other customers were in queue. She has paid the cash due to the pressure of the Branch Head and other Officers that otherwise her service would be affected. The DW-3 was the employee of MANMUL. He had deposed that, he deposited a slip dated 26.07.2005 for Rs. 21,006/- vide Pex-13.

7. The Enquiry Officer in his Report has not gone in detail for thread bear analysis of the evidence. However he has, dwelled upon the following circumstances:—

- (i) There was evidence that the crossed cheques in question (Pex-1 and Pex-2) were drawn in the favour of MANMUL and were tendered to CSE.
- (ii) As per the payment scrolls dated 16.08.2005, though it was a crossed account payee cheque the transaction was treated as cash.
- (iii) The defence that the cash was paid to the drawer himself was not acceptable, since, the cheques were drawn in favour of M/s MANMUL, a corporate customer that too without obtaining the signature of the person to whom the cash was paid.
- (iv) In respect of Pex-13 / pay in slip dated 26.7.2005 through which Rs. 21,006/- was paid. PW-2 had deposed that for depositing the cheques the instruments were not taken as it was a routine matter.

Thus, the finding on Charge No. 1 went in favour of the prosecution. Though, it is not an elaborate Report same is not arbitrary or perverse. The finding stems out from the Documentary evidence corroborated by oral evidence of Official witnesses. The documents were not disputed. All through 1<sup>st</sup> Party has admitted reimbursement of the amount pertaining to Pex-1 and Pex-2. Her defence that because of the threat and pressure, she was constrained to deposit the amount does not appeal to the common wisdom. There is no valid reason for her not to follow the procedure, when crossed account payee cheques were submitted for the credit to the account of the customer MANMUL. Her defence that, by inadvertence she had paid the cash to the depositor himself is not substantiated by any documentary evidence. Hence, I do not find any fault with the finding of the Enquiry Officer.

8. The Disciplinary Authority has given up the finding of the Enquiry Officer bailing out the CSE of the second charge. Hence, there was no obligation on the authority to issue notice of disagreement to the 1<sup>st</sup> Party workman. The charge No. 1 which was held proved was sufficient to make out a case of gross misconduct under Para 5(j) of the Memorandum of Settlement dated 10.04.2002.

Though, the Bank has not suffered pecuniary loss, misappropriation even for a temporary period will shatter the confidence and trust deposited by the customers with the Bank. Temporary misappropriation for however short period it may be, is sure to have it's ramification on the business of the Bank. Hence, it cannot be said that the punishment of 'Dismissal from service' does not commensurate with the charge proved during the Enquiry. There is no mitigating circumstance to intervene with the punishment Order in exercise of the jurisdiction under Sec 11-A of 'the Act'.

#### **AWARD**

**The reference is rejected.**

(Dictated to o/s LDC, transcribed by her, corrected and signed by me on 08<sup>th</sup> July, 2020)

JUSTICE SMT. RATNAKALA, Presiding Officer



नई दिल्ली, 27 जुलाई, 2020

**का.आ. 616.**—केंद्र सरकार, गोदी कामगार( सुरक्षा, स्वास्थ्य और कल्याण) अधिनियम, 1986 की धारा 3 की उप धारा (1) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और श्रम एवं रोज़गार मंत्रालय की दिनांक 5.12.2015 की अधिसूचना सं. सा.का. 2234 का अधिक्रमण करते हुए, डॉ. आर.के. इलनगोवन, महानिदेशक, कारखाना सलाह सेवा एवं श्रम संस्थान महानिदेशालय (डीजीफासली), मुंबई को एतद्वारा 1 अक्टूबर, 2019 (पूर्वाह्न) से उक्त अधिनियम के प्रयोजनार्थ सभी प्रमुख बंदरगाहों के लिए मुख्य निरीक्षक, गोदी सुरक्षा के रूप में नियुक्त करते हैं।

[सं. ए-32012/02/2019-आईएसएच-1]

शिवाकांत कुमार, अवर सचिव

New Delhi, the 27th July, 2020

**S.O. 616.**—In exercise of the powers conferred by Sub-Section (1) of Section 3 of the Dock Workers (Safety, Health and Welfare) Act, 1986, and in supersession of the notification of the Ministry of Labour and Employment No. S.O. 2234 dated 05.12.2015, the Central Government hereby appoints Dr.R.K.Elangovan, Director General, Directorate General Factory Advice Service & Labour Institutes (DGFASLI), Mumbai to be the Chief Inspector of Dock Safety for all major ports for the purposes of the said Act with effect from 01<sup>st</sup> October, 2019 (F/N).

[No. A-32012/02/2019-ISH-I]

SHIVAKANT KUMAR, Under Secy.